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18 UNITED STATES DISTRICT COURT  
19 DISTRICT OF NEVADA

20 Cung Le, Nathan Quarry, Jon Fitch, Brandon  
21 Vera, Luis Javier Vazquez, and Kyle  
22 Kingsbury on behalf of themselves and all  
others similarly situated,

23 Plaintiffs,

24 v.

25 Zuffa, LLC, d/b/a Ultimate Fighting  
26 Championship and UFC,

27 Defendant.  
28

Case No.: 2:15-cv-01045-RFB-(PAL)

**JOINT MOTION TO SEAL THE  
PARTIES' JOINT STATEMENT  
REGARDING INDEPENDENT  
EXPERTS**

1 Zuffa, LLC (“Zuffa”) and the Plaintiffs (collectively, the “Parties”) respectfully request  
 2 that the Court order the Clerk of Court to file under seal the Parties’ Joint Statement Regarding  
 3 Independent Experts (the “Statement”), filed concurrently with this motion, and that the Court  
 4 conduct an *in camera* review of these materials in support of its appointment of an independent  
 5 expert.

6 Federal Rule of Evidence 706, “only allows a court to appoint a neutral expert.” *O’Neill*  
 7 *v. Bannister*, 2012 WL 12542743, at \*2 (D. Nev. Aug. 29, 2012) (citation and quotation marks  
 8 omitted); *see also Woodroffe v. Oregon*, No. 2:12-CV-00124-SI, 2014 WL 1383400, at \*5 (D. Or.  
 9 Apr. 8, 2014) (citing *Walker v. Am. Home Shield Long Term Disability Plan*, 180 F.3d 1065,  
 10 1071 (9th Cir. 1999)). Pursuant to the Court’s directive from the February 1, 2019 hearing, the  
 11 Parties have each submitted the names of three Independent Expert candidates for the Court’s  
 12 consideration to assist the Court in evaluating the Parties’ expert reports. Feb. 1, 2019 Hearing  
 13 Transcript, ECF No. 651, 22:20-24:2. In order to guard against the risk of bias or prejudice, the  
 14 parties respectfully request that the Court grant their joint motion and direct the Clerk of Court to  
 15 file the Statement under seal so that no expert knows which side sponsored the expert’s  
 16 nomination. Since it is essential for the Court-appointed expert to serve in an independent role,  
 17 the Statement is properly sealed under both the “good cause” and the “compelling reasons”  
 18 standards. *Ctr. for Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1097 (9th Cir. 2016);  
 19 *Kamakana v. City & Cty. Of Honolulu*, 447 F.3d 1172, 1179 (9th Cir. 2006).

20 If the Statement were publicly filed, the proposed experts would know which side  
 21 sponsored the expert’s nomination, which could increase the risk that an expert might be biased  
 22 towards the sponsoring party. The Court has already taken efforts to prevent against such bias by  
 23 finding it “appropriate” for the Parties to contact each proposed expert jointly to ensure the expert  
 24 did not know which party initially proposed his name. Feb. 1, 2019 Hearing Transcript, ECF No.  
 25 651, 26:16-25. The Parties have followed this approach. Declaration of Nicholas A. Widnell in  
 26 Support of the Joint Motion to Seal ¶¶ 3-4. The Parties have contacted each Independent Expert  
 27 candidate to assess whether the expert is interested in and available for the proposed appointment  
 28 and to respond to any initial questions from the candidates. *Id.* All of these communications

1 were made jointly, and the Parties did not disclose to any candidate which party had proposed  
2 each expert's name. *Id.* Public disclosure of the Statement would negate those previous efforts at  
3 ensuring the candidates' neutrality towards both parties.

4 For the foregoing reasons and those included in the Declaration of Nicholas A. Widnell,  
5 the parties respectfully request the Court order the Clerk of Court to file under seal the Parties'  
6 Joint Statement Regarding Independent Experts.

1 Dated: April 12, 2019\_

Dated: April 12, 2019

2 **BERGER MONTAGUE PC**

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By: /s/ Nicholas A. Widnell

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**ATTESTATION OF FILER**

The signatories to this document are myself and Eric Cramer, and I have obtained Mr. Cramer's concurrence to file this document on his behalf.

Dated: April 12, 2019

/s/ Nicholas A. Widnell

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that the foregoing Joint Motion to Seal the Parties' Joint Statement Regarding Independent Experts was served on April 12, 2019 via the Court's CM/ECF electronic filing system addressed to all parties on the e-service list.

/s/ Roderick Crawford

Roderick Crawford